

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DELAWARE MARKETING PARTNERS,
LLC, a Delaware limited liability company,

Plaintiff

CA No.: 04-263

v.

JUDGE McLAUGHLIN AND
MAGISTRATE JUDGE
SUSAN PARADISE BAXTER

CREDITRON FINANCIAL SERVICES,
INC, a Pennsylvania corporation, and,
TELATRON MARKETING GROUP,
INC., a Pennsylvania corporation,

TRIAL BY JURY DEMANDED

Electronically Filed

Defendants

MOTION FOR PROTECTIVE ORDER
REGARDING DEFENDANTS' MOTION TO COMPEL DISCOVERY

AND NOW, comes Plaintiff, Delaware Marketing Partners, LLC, by and through its attorneys, Dickie, McCamey & Chilcote, P.C., and files the following Motion for Protective Order Regarding Defendants' Motion to Compel Discovery as follows:

1. On May 26, 2006, Defendants filed a Motion to Compel seeking to obtain proprietary information redacted by Plaintiff in response to certain discovery requests.
2. The information requested by Defendants in their Motion to Compel is selection criteria, codes and parameters created, determined and supplied by Plaintiff to Choice Point, a company that retrieves and stores credit data from various credit agencies, for the purpose of obtaining lists of individuals from Choice Point to be used in telemarketing and mail solicitations. Defendants claim that a review of this data is necessary to determine the cause of alleged decline in the quality of lists provided by Choice Point and sent to Defendants.

3. Plaintiff has expertise in developing, creating, and determining criteria, codes and parameters to obtain lists of individuals to be used in telemarketing and mail solicitations, and specifically individuals who would be interested in consolidating existing student loans.

4. Discovery has revealed that Defendants are direct competitors of Plaintiff.

5. Defendants also conceded in discovery that they do not have expertise in managing credit bureau relationships or determining the criteria and codes utilized to target, or otherwise obtain the identity of, certain individuals who would be interested in consolidating existing student loans.

6. Providing the redacted proprietary information to a direct competitor, such as Defendants, will harm Plaintiff and place it at a commercial disadvantage. Disclosure of such information as requested by Defendants in this action is not permitted. Miles v. The Boeing Company, 154 F.R.D. 112, 114 (3d Cir. 1994) (subject matter of confidential business information is broad, and includes a wide variety of business information); Duracell, Inc. v. SW Consultants, Inc., 126 F.R.D. 576 (N.D. Ga. 1989) (courts have consistently held that marketing information is confidential commercial information; court protected marketing data as confidential until it was determined to be necessary for the litigation).

7. In an effort to respond to Defendants' Motion to Compel, but without waiving Plaintiff's objections and the confidential nature of the redacted information, Plaintiff has described the nature of the changes in the selection criteria with respect to obtaining lists of individuals in its Brief in Support of this Motion, which is incorporated herein by reference.

8. Plaintiff has done so to enable Defendants to understand the changes in the selection criteria that occurred over time, while retaining the confidential nature of the information.

9. As such, Defendants can defend against Plaintiff's claims in this matter.

10 Finally, Defendants have sent subpoenas to third parties that include requests for the proprietary information. Plaintiff requests that Defendants not review this information until the Court rules upon this Motion for Protective Order.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an Order denying Defendants Motion to Compel Discovery.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the foregoing **MOTION FOR PROTECTIVE ORDER REGARDING DEFENDANTS' MOTION TO COMPEL DISCOVERY** has been served this 1st day of June, 2006, by Facsimile and U.S. first-class mail, postage prepaid, to counsel of record listed below:

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